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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT SEATTLE

8 FIRS HOME OWNERS ASSOCIATION,

9 Plaintiff,

10 v.

11 CITY OF SEATAC,

12 Defendant.  
13  
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NO. C19-1130RSL

ORDER GRANTING IN PART  
PLAINTIFF'S MOTION TO STRIKE  
AFFIRMATIVE DEFENSES

15 This matter comes before the Court on "Plaintiff's Motion to Strike Affirmative Defenses  
16 of the City of SeaTac." Dkt. # 42. Defendant was granted leave to amend its answer in an  
17 attempt to correct certain deficiencies identified by plaintiff: the Court has therefore considered  
18 plaintiff's motion to strike in the context of the amended pleading, Dkt. # 56 at 38-40.

19 Plaintiff seeks dismissal of defendant's affirmative defenses on the grounds that they  
20 (i) are not proper affirmative defenses or (ii) are inadequately pled. The Court agrees that  
21 Affirmative Defenses # 1 and # 6 (Dkt. # 56 at 38-39) are improper in that they simply assert  
22 that plaintiff will be unable to prove its claims. Those defenses are hereby STRICKEN.  
23

24 With regards to the sufficiency of the pleading, the Court finds that the language of Fed.  
25 R. Civ. P. 8(c), the fact that a defendant is not required to show that it is entitled to relief when  
26 pleading an affirmative defense, the short time frame in which defendant must investigate  
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28 ORDER GRANTING IN PART PLAINTIFF'S  
MOTION TO STRIKE AFFIRMATIVE DEFENSES- 1

1 plaintiff's accusations and file a response, and the form answer provided in the Federal Rules for  
2 an affirmative defense all militate against imposing the heightened pleading standard set forth in  
3 *Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007), and *Ashcroft v. Iqbal*, 556 U.S. 662 (2009), on  
4 affirmative defenses. Nevertheless, the answer, when read in conjunction with the allegations of  
5 plaintiff's complaint and other matters in the record, must comply with Rule 8's requirement of a  
6 "short and plain" statement to give the opposing party fair notice of the defense and the grounds  
7 upon which it rests. *Simmons v. Navajo County, Ariz.*, 609 F.3d 1011, 1023 (9th Cir. 2010)  
8 (quoting *Wyshak v. City Nat. Bank*, 607 F.2d 824, 827 (9th Cir. 1979)). Defendant's affirmative  
9 defense of waiver is lacking even under this more relaxed standard: it remains unclear how  
10 moving out of the Firs Mobile Home Park constitutes a voluntary and knowing relinquishment  
11 of the claims asserted in this litigation. Affirmative Defense # 5 is therefore STRICKEN with  
12 leave to amend.

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15 The remainder of the affirmative defenses are proper defenses and give plaintiff fair  
16 notice of the facts on which they are based.

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19 For all of the foregoing reasons, plaintiff's motion to strike the affirmative defenses is  
20 GRANTED in part.

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22 Dated this 23rd day of March, 2020.

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24 Robert S. Lasnik  
25 United States District Judge  
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